

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

**In re:**

**SKIN LOGIC, LLC,**

**Debtor.**

**Case No. 23-11352-KHK  
Chapter 11**

**ANGELA SHORTALL, CHIEF  
RESTRUCTURING OFFICER FOR BNG  
GROUP, LLC,**

**Movant,**

**v.**

**SKIN LOGIC, LLC,**

**Defendant.**

**CHIEF RESTRUCTURING OFFICER FOR BNG GROUP LLC’S  
MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Angela Shortall (the “**CRO**”), the chief restructuring officer for BNG Group LLC (“**BNG**”), by counsel, pursuant to section 362(d) of title 11 of the United States Code, 11 U.S.C. § 101, *et seq.*, (the “**Bankruptcy Code**”), Rule 4001(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 4001(a)-1 of the Local Bankruptcy Rules, hereby moves for relief from the automatic stay (the “**Motion**”) to exercise BNG’s rights with respect to a Deed of Lease (the “**Lease**”), under which Skin Logic, LLC (the “**Debtor**”) occupies the

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premises located at 2 Pidgeon Hill Drive, Sterling, Virginia (the “**Premises**”). In support of the Motion, the CRO respectfully states as follows:

### **JURISDICTION AND VENUE**

1. This Motion is filed pursuant to section 362(d) of the Bankruptcy Code, Rule 4001(a) of the Bankruptcy Rules, and Rule 4001(a)-1 of the Local Bankruptcy Rules.

2. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and venue is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409.

3. This Motion is a core proceeding within the meaning of 28 U.S.C. § 157(b).

### **BACKGROUND**

#### **A. The Lease**

4. By Deed of Lease dated February 25, 2013, the Debtor entered into the Lease to occupy the Premises.

5. On October 30, 2020, BNG acquired the Premises. The Lease, as amended and assigned, is presently by and between the Debtor and BNG. True and correct copies of the Lease and its two amendments, as maintained by BNG, are attached as **Exhibit A**.

6. The Lease provides, in relevant part, that “tenant shall pay Landlord the Total Basic Rent for the Initial Term or any Additional Term thereafter, **without any deductions or set-offs,...**” Lease ¶ 4.1 (emphasis added). Likewise, paragraph 7 of the Second Amendment to Office Lease Agreement, dated March 17, 2017 states that “[a]ll Rent shall be paid to Landlord in monthly installments **without offset or deduction. . . .**” (emphasis added).

7. The Debtor is currently in default under the Lease, both as to prepetition rent due and post-petition administrative rent due. *See* Declaration of Angela Shortall (the “**Shortall Decl.**”) ¶¶ 5-15, attached hereto as **Exhibit B**. From October 30, 2020 through the Petition Date (as defined below), total rent due under the lease was \$920,429. Shortall Decl. ¶ 6. During this

period, the Debtor made two traditional lease payments totaling \$53,460, leaving a prepetition balance due, without consideration of late fees and interest, of \$866,969.<sup>1</sup> Shortall Decl. ¶ 8. After the Petition Date, the Debtor failed to pay any of the stub rent owed for the post-petition portion of the month of August 2023, or any portion of the rent due for September 2023 or October 2023. Shortall Decl. ¶ 10. It was not until December 2023 that the Debtor made a partial payment of the rent due for November 2023, and, as of October 31, 2024, the Debtor has to date paid only \$48,000 towards its post-petition lease obligation, leaving an outstanding post-petition rent deficiency of \$347,342, exclusive of interest and late fees. Shortall Decl. ¶ 12.

B. The Bankruptcy Cases

8. On August 24, 2023 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under subchapter V of chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), commencing the above-captioned case (the “**Bankruptcy Case**”).

9. Three weeks prior to the Petition Date, on August 3, 2023, Valeria V. Gunkova (“**Ms. Gunkova**”), the Debtor’s principal, filed her own voluntary petition under chapter 11 of the Bankruptcy Code in this Court, commencing Case No. 23-11261-BFK (the “**Gunkova Case**”).

10. Ms. Gunkova holds a 50% interest in BNG, which interest is now an asset of Ms. Gunkova’s bankruptcy estate.

11. On October 26, 2024, Ms. Gunkova filed an application to employ Ms. Shortall as the chief restructuring officer of BNG [Gunkova Case, Docket No. 122], and on November 9, 2023, this Court entered an Order appointing Ms. Shortall as CRO [Gunkova Case, Docket No. 143].

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<sup>1</sup> Throughout the prepetition period, there were substantial transfers between BNG and the Debtor which the Debtor has asserted should be included in the calculation of rent credits available to offset rents due. BNG disputes the Debtor’s calculation of the alleged rent credits.

12. On September 13, 2023, the Office of the United States Trustee moved to remove the Debtor from possession and for the appointment of Stephen A. Metz, the subchapter V trustee (the “**Trustee**”), to serve as the operating trustee of the Debtor’s bankruptcy estate [Docket No. 34], and on September 27, 2023, this Court appointed Mr. Metz as Operating Trustee and removed the Debtor as debtor in possession.

13. On November 22, 2023, the Debtor proposed its *Plan of Reorganization for Small Business Under Chapter 11* [Docket No. 63] (the “**Original Plan**”). The Original Plan contained numerous defects and was on its face unconfirmable.

14. On March 11, 2024, the Debtor proposed its *First Amended Plan of Liquidation for Small Business under Chapter 11* [Docket No. 96] (the “**Amended Plan**”). The hearing to consider confirmation of the Amended Plan is scheduled for November 19, 2024. However, as set forth in the objections filed by the CRO [Docket No. 110], Harry Kamin [Docket No. 111], and the Office of the United States Trustee [Docket No. 112], the Amended Plan is likewise unconfirmable because, among other things, it provides for the Debtor to assume the Lease but contains no details regarding the Debtor’s ability to pay the substantial prepetition and post-petition arrears under the Lease.

15. On July 18, 2024, the Trustee filed a *First Notice to Counterparties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 130], which identified the Lease as an unexpired lease that the Trustee could potentially assume and assign.

16. To date, the Lease has not been assumed, and on information and belief, the Trustee’s efforts to market and sell the Debtor’s business remain ongoing.

### **ARGUMENT**

17. The CRO seeks relief from the automatic stay pursuant to section 362(d) of the Bankruptcy Code. Section 362(d) states, in relevant part:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay –

- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest;
- (2) with respect to a stay of an act against property under subsection (a) of this section, if –
  - (A) the debtor does not have an equity in such property; and
  - (B) such property is not necessary to an effective reorganization. . . .

11 U.S.C. § 362(d).

18. Thus, under section 362(d)(1) of the Bankruptcy Code, the Court shall grant relief from the automatic stay upon a showing of cause. The Bankruptcy Code does not define “cause” and “there is no rigid test for determining whether sufficient cause exists to modify the automatic stay.” *In re Meredith*, 337 B.R. 574, 577 (Bankr. E.D. Va. 2006); *see also In re JKJ Chevrolet, Inc.*, 190 B.R. 542 (Bankr. E.D. Va. 1995). The determination of whether “cause” exists must be made on a case-by-case basis, and is within the discretion of the bankruptcy court. *See In re Meredith*, 337 B.R. at 577 (citing *In re Robinson*, 169 B.R. 356 (Bankr. E.D. Va. 1994)).

19. Cause exists to lift the automatic stay to permit BNG to enforce its rights under the Lease. The Bankruptcy Case has been pending for over one (1) year. During that time, the Debtor has been in default of both its prepetition and post-petition rent obligations, and it has incurred significant post-petition arrears of \$347,342.

20. No attempt has been made to satisfy BNG’s post-petition administrative rent claim. At this juncture, it is clear that the Debtor has no ability to become current on its substantial administrative rent obligations. The only source of funding to cure the pre- and post-petition rent defaults is an assignment of the Lease to a third party. While the Trustee is working diligently to negotiate such an assignment of the Lease to potential assignees, there is no guarantee that he will

be successful in these efforts. In the meantime, the Debtor continues to occupy the Premises and BNG is required to continue underwriting the Debtor's operations.

21. BNG will incur substantial hardship if relief from stay is not granted. This Bankruptcy Case has been pending for almost fourteen (14) months, and the Debtor has not filed a remotely confirmable plan, shown any ability to reorganize, or proposed a realistic plan for liquidation that would provide meaningful distributions to creditors such as BNG. BNG has and will continue to be substantially prejudiced if relief from stay is not granted so that it may exercise the rights available to it. In contrast, the Debtor will not be prejudiced because, absent an assumption and assignment of the Lease to a third party that has the ability to cure the existing default, it has no possibility of reorganization and holds no equity in the Premises.

22. Unless and until the administrative rent payments are forthcoming or the Trustee succeeds in his efforts to negotiate an assignment of the Lease to a creditworthy third-party, cause exists to grant relief from the automatic stay to permit the CRO, on behalf of BNG, to enforce its rights under the Lease.

23. The CRO reserves the right to supplement this Motion should additional grounds for relief from the automatic stay materialize.

### **NOTICE**

**YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)**

**IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN 14 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS 14-DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.**

**IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE 14- DAY PERIOD.**

**CONCLUSION**

WHEREFORE, based on the foregoing, the CRO submits that cause exists to grant BNG relief from the automatic stay and respectfully requests entry of an order entry of an order (i) granting BNG relief from the automatic stay in order to enforce its rights under the Lease; and (ii) granting such other and further relief to the CRO as this Court may deem just and proper.

Dated: November 5, 2024

Respectfully submitted,

/s/ Lawrence A. Katz

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5th day of November, 2024, a true and correct copy of the foregoing *Chief Restructuring Officer for BNG Group LLC's Motion for Relief From the Automatic Stay* was served on all parties receiving CM/ECF notices in this case, and by U.S. Mail, first class, postage prepaid, on and on each of the parties on the attached Mailing List.

/s/ Lawrence A. Katz  
Lawrence A. Katz



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